

BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT	)	PDC CASE NO: 00-873
ACTION AGAINST	)	
	)	
King County and	)	Notice of Administrative
King County Department of Transportation	)	Charges
	)	
Respondents.	)	
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IT IS ALLEGED as follows:

**I.**  
**JURISDICTION**

Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public Disclosure Commission, Chapter 34.05, Administrative Procedure Act, and Title 390 WAC.

**II.**  
**LAW**

RCW 42.17.190(2) states: “Unless authorized by subsection (3) of this section or otherwise expressly authorized by law, no public funds may be used directly or indirectly for lobbying: PROVIDED, This does not prevent officers or employees of an agency from communicating with a member of the legislature on the request of that member; or communicating to the legislature, through the proper official channels, requests for legislative action or appropriations which are deemed necessary for the efficient conduct of the public business or actually made in the proper performance of their official duties: PROVIDED FURTHER, That this subsection does not apply to the legislative branch.”

RCW 42.17.190(3) states: “Any agency, not otherwise expressly authorized by law, may expend public funds for lobbying, but such lobbying activity shall be limited to (a) providing information or communicating on matters pertaining to official agency business to any elected official or officer or employee of any agency or (b) advocating the official position or interests of the agency to any elected official or officer or employee of any agency; PROVIDED, That public funds may not be expended as a direct or indirect gift or campaign contribution to any elected official or officer or employee of any agency. For the purposes of this subsection, the term “gift” means a voluntary transfer of any thing of value without consideration of equal or greater value, but does not include informational material transferred for the sole purpose of informing the recipient about matters pertaining to official agency business. This section does not permit the printing of a state publication which has been otherwise prohibited by law.”

RCW 42.17.020(26) states: “ “Legislation” means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, have passed both houses, are pending approval by the governor.”

Declaratory Order No. 15 states “Lobbying under RCW 42.17.190 occurs when the person making the communication to an elected official, or officer or employee of any agency, intends to influence in a material way the adoption or rejection of specific proposed or reasonably anticipated bills, resolutions, motions, amendments, nominations, and other like matters before the state legislature.”

RCW 42.17.020(27) states in part: “ “Lobby” and “lobbying” each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington ...”

### **III.** **BACKGROUND**

Initiative 695 (the \$30 car tab initiative) was a statewide initiative passed by the people on November 2, 1999. There was concern around the state after Initiative 695 passed that transit funding would be negatively impacted because car tab fees were used in part for transportation funding. During the 2000 legislative session, interested parties, including local government agencies responsible for providing public transportation, lobbied the Legislature to replace transportation funding lost because of the passage of Initiative 695.

In January, 2000 a complaint was filed by Shawn Newman alleging that King, Snohomish and Pierce Counties had used public facilities to produce and mail a flyer to transit users promoting a rally in Olympia during the 2000 legislative session to lobby the Legislature and Governor to support transportation funding.

During the 2000 legislative session, the legislature adopted a supplemental budget that included transportation funding. The supplemental budget provided transportation funding on a statewide basis to assist transit agencies that lost revenue as a result of the passage of Initiative 695.

### **IV.** **FACTS**

These charges incorporate the Report of Investigation and all of its exhibits by reference.

On December 16, 1999, King County Executive Ron Sims issued a News Release entitled “Sims supports Governor Locke’s post-695 proposals.” The news release stated that Governor Locke’s proposed post Initiative 695 budget contained much needed support for the county’s transit, public health and law, safety and justice programs. Executive Sims discussed how King County sustained a two-year loss of \$157 million to transit funding as a result of the passage of Initiative

695. He noted how the Governor's proposed budget would allocate \$100 million in the first year statewide for county transit agencies, and said King county would receive \$45.5 million of that amount. Executive Sims went on to state in part, "... *we strongly urge the Legislature to review this proposal in a very positive light, so we in local government can arrive at the best solution for shifting priorities to fund critical services.*"

King County and King County Department of Transportation produced and mailed a flyer entitled "**Make a fuss to save your bus!**" The flyer included a drawing of a bus and said, "*King County Executive Ron Sims, Pierce County Executive Doug Sutherland and Snohomish County Executive Bob Drewel – along with the Transportation Choices Coalition and others – invite you to join them at a public rally in Olympia.*"

The flyer stated that the public rally would be held Monday, January 10, 2000 at noon on the front steps of the State Capitol Building. The flyer said there would be a pre-rally briefing event, at 10:00 a.m., at United Churches, 100 11<sup>th</sup> Avenue Southeast in Olympia, across from the Capitol campus. The flyer said, "*Join us to tell the Governor and Legislature that people care about transit, transportation choices and the environment.*"

The flyer was sent by First Class Mail, U.S. Postage Paid, to 20,337 recipients. The flyer was produced and mailed by King County Department of Transportation. King County officials spent \$7,850.65 to print and mail the flyer. The flyer was mailed to a list of people who had provided their names and addresses to the King County Department of transportation via telephone, mail and at meetings conducted by the Department.

Ron Posthuma, Deputy Director of the King County Department of Transportation, directed that the flyer be produced and mailed. According to King County officials, the flyer was "*produced and mailed to inform interested persons of a transit related event in which county officials were participating.*" King County officials also stated, "*The intent of the mailing was to notify*

*interested persons of an opportunity to join local government officials in an event designed to call attention to the general problem of inadequate transit funding.”* One side of the flyer included an address label. It also included the return address “King County Department of Transportation, Community Relations, S. Jackson St., KSC-TR-0824, Seattle, WA 98104-3856.” Below the return address, the flyer included the statement, **“Public rally to support transportation funding! Monday, Jan. 10, 2000 State Capitol Building.”**

On December 27, 1999, the State of Washington, Department of General Administration, granted a Washington State Capitol Campus Facility Use Permit for a Transit Services Rally to be held on the Capitol Steps on Monday, January 10, 2000. The permit stated that the event would be held from Noon to 2:00 p.m. and that the estimated attendance would be 100 people. The permit listed the Lutheran Public Policy Office of Washington as the sponsoring organization.

## V.

### CONCLUSION

RCW 42.17.190 does not allow King County and the King County Department of Transportation to expend its resources to indirectly advocate the official position or interests of the agency to elected officials or officers or employees of agencies through its constituents, private citizens not employed by or under contract with the county, or outside groups.

King County Department of Transportation employees used county resources to indirectly advocate the position and interests of the county to the Legislature and Governor in a way not authorized by RCW 42.17.190. King County Executive Ron Sims issued a News Release on December 16, 1999 (after the passage of Initiative 695 and prior to the start of the 2000 Legislative session) outlining the transit needs of King County resulting from the passage of Initiative 695 and stating the county’s support for the Governor’s proposed budget that would replace lost transit funding.

The respondent violated RCW 42.17.190 by using King County resources to produce and mail 20,337 flyers promoting a public rally to support transportation funding by the Legislature and Governor. The rally was held on the steps of the State Capitol Building on Monday, January 10, 2000, the opening day of the 2000 legislative session.

Staff alleges, based on the facts specified in Section IV, and as outlined above, that King County and the King County Department of Transportation violated RCW 42.17.190 by expending its resources to lobby the Legislature and Governor during the 2000 legislative session in a way not authorized by RCW 42.17.190.

RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of June, 2001.

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Philip E. Stutzman  
Director of Compliance